

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6785 OF 2005

Babar Dadasaheb Maruti.

... Applicant.

Versus.

State of Maharashtra.

... Respondent.

Shri Uday P.Warunjikar for the Applicant.

Ms.M.M.Deshmukh, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 18th October, 2005.

P.C.:

1. Heard the learned Advocate appearing for the Applicant and the learned A.P.P. for the State.

2. An offence has been registered against the Applicant and the co-accused under sections 420, 467 and 468 of the Indian Penal Code. The F.I.R. was filed on 17th September 2004. The allegation of the first informant is that when her husband was seriously ill, the Applicant has withdrawn a sum of Rs.2,30,882/- by making signature of her husband on a withdrawal slip and he has deposited the said amount in his account. The allegation of the commission of offence was also made against the Manager and Cashier of the bank. The Application for anticipatory bail made by the Applicant was rejected by the Sessions Court on 11th October 2004. Thereafter the Applicant was not arrested. It is the case of the Applicant that he regularly attended the

Police Station after rejection of his application but was not arrested by the Police. As there was apprehension that the Police may arrest the Applicant in connection with the same offence, he filed another application for anticipatory bail which was rejected by the Additional Sessions Judge, Pandharpur on 5th September 2005. The Advocate for the Applicant pointed out that a notice was given by the first informant on 26th April 2005 to the Applicant and to the Manager of the concerned Bank calling upon them to repay a sum of Rs.2,30,882/- and a reply was given by the Applicant through his Advocate on 30th July 2005 contending that the cheque dated 22nd May 2004 was signed by the deceased and the deceased was liable to pay the amount to the Applicant. The Advocate for the Applicant pointed out that the anticipatory bail has been granted to the co-accused who accompanied the Applicant at the time of withdrawal of the amount and even the Bank Manager and the Cashier had been granted anticipatory bail.

3. From the notice issued by the first informant and the reply given by the Applicant, it appears that there is a dispute between the parties as regards the said amount. The Applicant is sought to be arrested after lapse of more than one year from the date of registration of the offence by the Police. He was all along available to the Police for interrogation.

Considering all these peculiar aspects of the case, prejudice will be caused to the Applicant if pre-arrest bail is denied to him.

4. Hence the following order is passed:

- (i) In the event of the arrest of the Applicant in connection with C.R.No.114 of 2004 registered with Sangola Police Station, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.
- (ii) The Bail is granted subject to condition that till filing of the charge sheet, the Applicant will attend the concerned Police Station as and when called upon to do so and will cooperate for the investigation.
- (iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/

Investigating Agency. The Applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.